

SENATE BILL 3355
By Person, Curtis

AN ACT to amend Tennessee Code Annotated, Title 6, Chapter 17, Part 1; Title 6, Chapter 18, Part 3; Title 6, Chapter 21, Part 5; Title 6, Chapter 33, Part 1; Title 6, Chapter 4, Part 3; Title 6, Chapter 56, Part 1; Title 16, Chapter 18, Part 3; Title 16, Chapter 21, Part 1; Title 16, Chapter 17, Part 1; Title 16, Chapter 18, Part 2; Title 17, Chapter 3; Title 17, Chapter 5, Part 2; Title 55, Chapter 10, Part 3 and Title 67, Chapter 4, Part 6, relative to the Municipal Court Reform Act of 2004.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1.

(a) The title of this act is, and may be cited as, the "Municipal Court Reform Act of 2004".

(b) As used in this act,

(1) The language "any provision of law to the contrary" includes, but is not limited to, any conflicting provision of any general statute, local law, private act, charter provision, municipal law or municipal ordinance; and

(2) The term "municipal court" includes the city, town, mayor's, recorder's or municipal court (or other similarly functioning court, however designated), for any city, town, municipality or metropolitan government, whether such court exists pursuant to general statute, local law, private act, charter provision, municipal law, municipal ordinance or other legal authorization.

SECTION 2. Tennessee Code Annotated, Section 16-18-301, is amended by deleting the section in its entirety and by substituting instead the following sections:

§ 16-18-301.

(a)

(1) Notwithstanding any provision of law to the contrary, a municipal court possesses jurisdiction in, and over, cases:

(A) For violation of the laws and ordinances of the municipality; or

(B) Arising under the laws and ordinances of the municipality.

(2) Notwithstanding any provision of law to the contrary, a municipal court possesses jurisdiction to enforce a municipal law or ordinance that mirrors, substantially duplicates or incorporates by cross-reference the language of a state criminal offense, if and only if:

(A) The maximum penalty prescribed by state law for the state criminal offense is a fine of fifty dollars (\$50.00) or less and/or confinement for a period of thirty (30) days or less, and

(B) The maximum penalty prescribed by municipal law or ordinance for the violation is a civil fine not in excess of fifty dollars (\$50.00).

(b) Notwithstanding any provision of law to the contrary, in addition to jurisdiction authorized pursuant to subsection (a) above, a municipal court may also exercise concurrent jurisdiction with the court of general sessions if, and only if:

(1) The municipal court possessed and exercised such concurrent general sessions jurisdiction continuously on and before May 11, 2003; or

(2) On or after May 12, 2003, concurrent general sessions jurisdiction is duly conferred upon the municipal court in accordance with the procedures and requirements set forth in § 16-18-310.

(c) Notwithstanding any provision of law to the contrary, a municipal court may exercise no jurisdiction other than the jurisdiction authorized by the provisions of this section.

§ 16-18-302. Notwithstanding any provision of law to the contrary, every popularly elected or appointed judge of a municipal court is authorized to administer oaths.

§ 16-18-303.

(a) Notwithstanding any provision of law to the contrary, municipal court costs shall be set and collected by the court in the amount prescribed by municipal law or ordinance. From such amount, one dollar (\$1.00) shall be forwarded by the municipal court clerk to the state treasurer for deposit and shall be credited to the account of the administrative office of the courts for the sole purpose of defraying the administrative director's expenses in providing training and continuing education courses for municipal court judges.

(b) Notwithstanding any provision of law to the contrary, to the extent that a municipal court is exercising its duly conferred, concurrent general sessions court jurisdiction in a given case, the provisions of this section do not apply and costs in such case shall be assessed, collected and distributed in the same manner as such costs are assessed, collected and distributed in the court of general sessions.

§ 16-18-304.

(a) Notwithstanding the provisions of § 67-4-602, or any other law to the contrary, there is levied a privilege tax on litigation of eleven dollars and twenty-five cents (\$11.25) in all cases in a municipal court. All taxes levied pursuant to this subsection shall be collected in accordance with the provisions of § 67-4-603 and shall be paid into the state treasury and allocated in accordance with the provisions of § 67-4-606.

(b) There is levied a privilege tax on litigation of one dollar (\$1.00) for each and every violation of any municipal law or ordinance governing use of public parking space; and such tax is due and shall be collected even if the offender does not appear before the court. Notwithstanding any provision of this section or any other law to the contrary, the only litigation privilege tax collected for a violation of any municipal law or ordinance governing use of public parking space shall be the one dollar (\$1.00) litigation tax levied by the preceding sentence. Notwithstanding the apportionment provisions of § 67-4-606, or any

other law to the contrary, all revenue derived from such privilege tax shall be forwarded by the clerk to the state treasurer and shall be deposited into the civil legal representation of indigents fund authorized and created under § 16-3-808.

(c) Notwithstanding the provisions of § 67-4-602, or any other law to the contrary, no other privilege tax on litigation shall be levied or collected with respect to litigation in a municipal court.

(d) Any privilege tax imposed pursuant to this section which the clerk of the court fails to collect and pay over to the department of revenue shall be a debt of the clerk. Any clerk of the court failing or refusing to collect and pay over to the department taxes imposed pursuant to this section shall be liable therefor and the clerk's official bondsman shall also be liable therefor, and the commissioner or the commissioner's delegate may collect the amount of the tax from the clerk or the clerk's official bondsman pursuant to title 67, chapter 1, part 14.

(e) Notwithstanding any provision of law to the contrary, to the extent that a municipal court is exercising its duly conferred concurrent general sessions jurisdiction in a given case, the provisions of this section do not apply and litigation taxes in such case shall be levied and collected in the same manner as such taxes are levied and collected in the general sessions court.

§ 16-18-305. Notwithstanding any provision of law to the contrary, contempt of a municipal court shall be punishable only by fine in the amount of fifty dollars (\$50.00), or such lesser amount as may be imposed in the judge's discretion.

§ 16-18-306. Notwithstanding any provision of law to the contrary, any person dissatisfied with the judgment of a municipal court, in any case or cases heard and determined by the court acting pursuant to § 16-18-301(a), may, within ten (10) days thereafter, Sundays exclusive, appeal to the circuit court of the county, upon giving bond in the amount of two hundred fifty dollars (\$250) for such person's appearance and the faithful prosecution of the appeal. As used in this section, person includes, but is not limited to, a natural person, corporation, business entity or the municipality.

§ 16-18-307. Notwithstanding any provision of law to the contrary, a judge of a municipal court may not concurrently hold any other office or employment with the municipality. The provisions of this section do not apply to any municipal official or employee who, on the effective date of this act, concurrently holds office as judge of the municipal court; provided, however, if such official or employee either discontinues service as a municipal official or employee or discontinues service as judge of the municipal court, then the exemption granted by this sentence no longer applies.

§ 16-18-308.

(a) Each calendar year, the judge of each municipal court must attend at least three (3) hours of training or continuing education courses provided by, through or with approval of the administrative office of the courts and must certify such attendance to the administrative director. Failure to comply with the requirements of the preceding sentence shall render all subsequent judgments of the judge null and void, and of no effect, until such time as the requirements are met. Such training and continuing education courses may be offered by the administrative office of the courts in conjunction with the annual meeting of the Tennessee municipal judges conference, held in accordance with the provisions of § 17-3-301(c).

Each municipal judge shall be compensated for the judge's actual expenses in attending required training or continuing education. Such expenses shall be paid upon a verified statement of expenses being filed, with the chief administrative officer of the municipality, by a municipal judge incurring such expenses. Expenses shall be paid upon warrant of the chief administrative officer of the municipality from the general fund of the municipality.

(b) Each calendar year, the clerk of each municipal court must attend at least three (3) hours of training or continuing education courses provided by, through or with approval of the municipal technical advisory service of the university of Tennessee institute for public service. Each year the clerk must

certify such attendance to the administrative director of the administrative office of the courts.

Each municipal court clerk shall be compensated for the clerk's actual expenses in attending required training or continuing education. Such expenses shall be paid upon a verified statement of expenses being filed, with the chief administrative officer of the municipality, by a municipal court clerk incurring such expenses. Expenses shall be paid upon warrant of the chief administrative officer of the municipality from the general fund of the municipality.

§ 16-18-309.

(a) Notwithstanding any provision of law to the contrary, at all times there shall be a person elected, appointed or otherwise designated to serve as clerk of the municipal court. Immediately upon each such election, appointment or designation, the chief administrative officer of the municipality shall promptly certify the results of such election, appointment or designation to the administrative office of the courts and shall supply such additional information, concerning the clerk, as shall be required by the administrative director.

(b) Notwithstanding any provision of law to the contrary, the clerk of the municipal court shall maintain an accurate and detailed record and summary report of all financial transactions and affairs of the court. The record and report shall accurately reflect all disposed cases, assessments, collections, suspensions, waivers and transmittals of litigation taxes, court costs, forfeitures, fines, fees and any other receipts and disbursements. An audit of the financial records and transactions of the municipal court shall be made each year as part of any audit performed pursuant to § 6-56-101 or § 6-56-105.

§ 16-18-310.

(a) Notwithstanding any provision of law to the contrary, on or after May 12, 2003, concurrent general sessions jurisdiction shall be newly conferred upon an existing or newly created municipal court only in compliance with the procedures and requirements set forth in this section.

(1) A majority of the total membership of the municipal legislative body must vote in favor of seeking concurrent general sessions jurisdiction for an existing or newly created municipal court.

(2) The municipal legislative body must notify, by petition, the county legislative body of the municipality's intention to seek concurrent general sessions jurisdiction for the municipal court.

(3) The petition must contain the following:

(A) A plan for an adequate and secure courtroom;

(B) Agreement to comply with state mandated technical computer support comparable with the Tennessee court information system (TnCIS) program specifications and requirements.

(C) Agreement to comply with state laws governing general sessions court litigation taxes, costs, fees and assessments and to legally remit such items to the state department of revenue or to the county government, if appropriate.

(D) Agreement to comply with state laws subjecting the financial transactions of the court to annual public audits.

(4) The municipal legislative body and the county legislative body must appoint a feasibility study committee. The membership of the committee shall consist of the county mayor, the municipal mayor, one (1) member of the municipal legislative body, one (1) member of the county legislative body, the district attorney general who serves the county, and the district public defender who serves the county. The membership of the committee shall also consist of three (3) members appointed by the municipal legislative body from the following list: the chief of police, the city recorder/clerk, the city judge, the city attorney, and one (1) citizen member. The membership of the committee shall also consist of three (3) members appointed by the county legislative body from the following list:

the sheriff who serves the county, a general sessions judge who serves the county, the general sessions court clerk, the county attorney, and one (1) citizen member.

(5) The feasibility study committee shall determine whether the county requires an additional court to exercise general sessions jurisdiction. In making such determination, the committee shall consider and evaluate the following factors:

(A) The economic, administrative and personnel impact of the proposal upon the existing general sessions court;

(B) The impact of the proposal upon existing judicial services and law enforcement resources;

(C) The extent, if any, to which the proposed plan is necessary to promote and ensure the efficient administration of justice in relation to county and municipal populations, county population density, geographic logistics and distances, caseloads, number of judges, and the current caseload burden on the existing system;

(D) The plan's provision of adequate secure and comparable courtroom facilities for the hearing of cases in that location;

(E) The extent, if any, to which the proposed plan would unduly burden the existing staffs of the district attorney general or district public defender and the extent, if any, to which the plan proposes adequate funding for additional staff requirements;

(F) The extent, if any, to which the proposed plan would provide for compliance with state mandated technical computer support.

(6) By majority vote of its total membership, the feasibility study committee must agree upon written findings and recommendations and

must submit such findings and recommendations to the municipal legislative body and to the county legislative body. The findings and recommendations must include one of the following alternatives:

(A) There is a clearly demonstrated need for new general sessions court in the county, and such court would best be administered by the county;

(B) There is a clearly demonstrated need for a new general sessions court in the county, and such court would best be administered by the municipality, either as a new or existing municipal court with concurrent general sessions jurisdiction; or

(C) There is no clearly demonstrated need, at this time, for any of the alternatives set forth in subdivisions (6)(A) and (6)(B).

(7) If the feasibility study committee determines that there is no clearly demonstrated need for any of the alternatives set forth in subdivisions (6)(A) and (6)(B), then for one year thereafter neither the county nor the municipality may pursue further implementation of any of the alternatives set forth in subdivisions (6)(A) or (6)(B). After passage of one year, if the a majority of the total membership of the municipal legislative body again votes in favor of seeking concurrent general sessions jurisdiction for an existing or newly created municipal court, then a petition must again be submitted to the county legislative body and the procedures set forth in this section must again be followed.

(8) If the feasibility study committee recommends any one of the findings set forth in subdivisions (6)(A) or (6)(B), and if the county wishes to pursue creation of a new general sessions court in the county or if the municipality wishes to pursue extension of concurrent general sessions jurisdiction to a newly created or existing municipal court, then the county or municipality, as appropriate, shall:

(A) Submit the written findings and recommendations of the feasibility study committee to the judiciary committee of the senate, the judiciary committee of the house of representatives and the judicial council;

(B) Cause legislation to be timely prepared and submitted for review and evaluation by the judicial council in accordance with procedures set forth in § 16-21-107(a)(3), for a judicial district seeking creation of a state trial court; and

(C) Cause legislation to be timely introduced for consideration by the general assembly.

(b) Notwithstanding any provision of law to the contrary, any legislation, proposed to create a new general sessions court or to create a new municipal court with concurrent general sessions jurisdiction or to confer concurrent general sessions jurisdiction on an existing municipal court, must be approved by a majority of the total membership of the judiciary committee of the senate prior to passage by the senate and must be approved by a majority of the total membership of the judiciary committee of the house of representatives prior to passage by the house of representatives.

(c) Notwithstanding any provision of law to the contrary, if a municipality is located in two (2) or more counties of this state, then, as used in this section, "county" means the county of this state containing the largest geographical portion of the municipality.

§ 16-18-311. As used in this part:

(1) The language "any provision of law to the contrary" includes, but is not limited to, any conflicting provision of any general statute, local law, private act, charter provision, municipal law or municipal ordinance; and

(2) The term "municipal court" includes the city, town, mayor's, recorder's or municipal court (or other similarly functioning court, however designated), for any city, town, municipality or metropolitan government, whether such court

exists pursuant to general statute, local law, private act, charter provision, municipal law, municipal ordinance or other legal authorization.

SECTION 3.

(a) Tennessee Code Annotated, Section 16-21-101, is amended by deleting the words and punctuation "the speaker of the senate, or the speaker's designee;" and by substituting instead the following:

one (1) municipal court judge to be selected by majority vote of the board of governors of the Tennessee municipal judges conference; the speaker of the senate, or the speaker's designee;

(b) Tennessee Code Annotated, Section 17-5-201(a), is amended by deleting the words, figures and symbols "fifteen (15) members" and by substituting instead the following:

sixteen (16) members

(c) Tennessee Code Annotated, Section 17-5-201(a), is further amended by adding the following as a new, appropriate designated subdivision:

(6) One (1) municipal court judge licensed to practice law in this state to be appointed by the supreme court.

SECTION 4. Tennessee Code Annotated, Title 17, Chapter 3, is amended by adding the following language as a new part:

§ 17-3-301.

(a) There is hereby created the Tennessee municipal judges conference, which shall be the official organization of the municipal judges in this state. The membership of the conference shall consist of all judges of municipal courts in the state. The judges shall annually elect a board of governors for the conference.

(b) The Tennessee municipal judges conference is authorized to adopt and, from time to time, amend such rules or bylaws as it deems necessary or prudent for the conduct of its affairs. Such rules or bylaws shall provide for such membership on the board of governors as the conference considers advisable,

for the selection of a time and place within the state of Tennessee for annual meetings of the conference, and for such other matters consistent with the general laws of the state as the conference may choose.

(c) The conference shall meet annually for the consideration of any and all matters pertaining to the discharge of the official duties and obligations of its members, to the end that there shall be a more efficient and prompt administration of justice in the municipal courts in this state.

(d)

(1) It is the official duty of each member of the conference to attend the annual meeting unless unable to do so because of physical incapacity.

(2) Each member shall be compensated for the member's actual expenses in attending the annual meeting. Such expenses shall be paid upon a verified statement of expenses being filed, with the chief administrative officer of the municipality, by any member incurring such expenses. Expenses shall be paid upon warrant of the chief administrative officer of the municipality from the general fund of the municipality.

SECTION 5. Tennessee Code Annotated, Section 55-10-308, is amended by adding the following sentence:

Provided, however, with regard to any highway designated and known as a part of the national system of interstate and defense highways or any other multi-lane, fully controlled access highway, the provisions of this section are applicable only to those portions of such highways that are located within the boundaries of any municipality having a population in excess of fifty thousand (50,000), according to the 2000 federal census of population or any subsequent such census; and, on the remaining portions of such interstate and defense highways and controlled access highways, primary responsibility for enforcing such statutory sections shall be vested with the Tennessee

highway patrol and municipalities shall enforce such sections only to the extent, and in the manner, specifically requested by the highway patrol.

SECTION 6.

(a)

(1) Tennessee Code Annotated, Section 6-4-301(a), is amended by deleting subdivision (2).

(2) Tennessee Code Annotated, Section 6-4-301(b)(1), is amended by deleting item (C).

(3) Tennessee Code Annotated, Section 6-4-301(c)(1), is amended by deleting the final sentence.

(b)

(1) Tennessee Code Annotated, Section 6-21-501(a), is amended by deleting the second sentence and the final sentence.

(2) Tennessee Code Annotated, Section 6-21-501, is amended by deleting subsections (b) and (c)(3).

(3) Tennessee Code Annotated, Section 6-21-507(a), is amended by deleting the first sentence and by substituting instead the following:

The city judge, in all cases heard or determined by such city judge for offenses against the corporate laws and ordinances, shall set and collect municipal court costs in accordance with the provisions of § 16-18-303, shall levy and collect litigation tax in accordance with the provisions of § 16-18-304 and, in addition thereto, shall add thereto one dollar (\$1.00), as a tax on the same.

(c)

(1) Tennessee Code Annotated, Section 6-33-103(a), is amended by deleting the following punctuation and words:

, and in all such cases the judge of the city court is authorized to tax in the bill of costs the same amounts and for the same items allowed in courts

of general sessions for similar work in state cases; provided, that the council may provide for smaller costs.

and by substituting instead the following:

. The city judge, in all cases heard or determined by such city judge for offenses against the corporate laws and ordinances, shall set and collect municipal court costs in accordance with the provisions of § 16-18-303, and shall levy and collect litigation tax in accordance with the provisions of § 16-18-304.

(2) Tennessee Code Annotated, Section 6-33-103, is amended by deleting subsection (b).

(d) Tennessee Code Annotated, Section 6-56-105(a), is amended by deleting from the final sentence the words and punctuation "and public utilities." and by substituting instead the following:

, public utilities and municipal courts.

(e)

(1) Tennessee Code Annotated, Section 16-17-103, is amended by deleting the section in its entirety.

(2) Tennessee Code Annotated, Section 16-17-105, is amended by deleting the section in its entirety and by substituting instead the following:

Municipal court costs shall be set and collected in accordance with the provisions of § 16-18-303, and litigation tax shall be levied and collected in accordance with the provisions of § 16-18-304.

(f) Tennessee Code Annotated, Section 16-18-206, is amended by deleting the section in its entirety.

(g) Tennessee Code Annotated, Section 67-4-602, is amended by deleting the section in its entirety and by substituting instead the following:

(a) There is levied a privilege tax on litigation of thirteen dollars and seventy-five cents (\$13.75) in all civil suits in this state.

(b) There is levied a privilege tax on litigation of twenty-eight dollars and fifty cents (\$28.50) on all criminal charges, upon conviction or by order, instituted in this state. Notwithstanding the apportionment provisions of § 67-4-606, to the contrary:

(1) The first two dollars (\$2.00) of each levy of this tax shall be paid into the state treasury with the proceeds to be credited to a separate reserve account in the general fund to be used only by the department of education to promote and expand driver education through the public schools of this state;

(2) Two dollars and seventy-five cents (\$2.75) shall be paid into the state treasury with the proceeds used entirely to fund the provisions of § 40-14-207; and

(3) Two dollars and fifty cents (\$2.50) shall be paid into the general fund.

(c)

(1) In addition to any other tax which may be imposed by this chapter, there is levied a privilege tax on litigation of three dollars (\$3.00) on all criminal charges, upon conviction or by order, instituted in the general sessions court in any county having a population of not less than three hundred nineteen thousand six hundred twenty-five (319,625) nor more than three hundred nineteen thousand seven hundred twenty-five (319,725) according to the 1980 federal census or any subsequent federal census. Notwithstanding the apportionment provisions of § 67-4-606, each levy of this tax shall be paid into the office of the county clerk of such county with the proceeds to be credited to a separate reserve account in the county fund. The proceeds shall be disbursed to expand the use of the appropriate law enforcement officers for walking patrols within public housing subdivisions and in localities within such county that traditionally experience greater incidence of crime. The proceeds may

also be used by the respective police department to fund police cadet programs conducted by such department in localities within such county that traditionally experience greater incidence of crime.

(2) Five percent (5%) of the proceeds shall be retained by the office of the county clerk collecting the tax for the purpose of effectuating the provisions of this subsection (c).

(d) Every person, from whom the clerks of the various courts are required to collect the tax imposed by this section, shall be liable for the tax imposed by this section.

(e) In addition to any other tax levied by this chapter, there is levied an additional privilege tax on litigation of:

(1) Ten dollars (\$10.00) in all civil cases in the circuit courts and chancery courts,

(2) Three dollars (\$3.00) in all civil cases in the courts of general sessions; and

(3) One dollar (\$1.00) on all criminal charges, upon conviction or by order, instituted in any state or county court for any violation of title 55, chapter 8.

(f) In addition to any other tax levied by this chapter, there is levied an additional privilege tax on litigation of one dollar (\$1.00) on all criminal cases instituted in this state. Notwithstanding the provisions of § 67-4-606, all revenue derived from such tax shall be deposited in the state general fund and earmarked for grants to local governments for the purchase and maintenance of and line charges for electronic fingerprint imaging systems. These grants shall be awarded and administered by the office of criminal justice in the department of finance and administration. The general assembly may appropriate a portion of the earmarked funds derived from this subsection (g) to the Tennessee bureau of investigation for the purchase, installation, maintenance, and line charges for electronic fingerprint imaging systems. Prior to the purchase of any electronic

fingerprint imaging system, a law enforcement agency or local government shall obtain certification from the Tennessee bureau of investigation that such equipment is compatible with the Tennessee bureau of investigation's and the federal bureau of investigation's integrated automated fingerprint identification system.

(g) Notwithstanding the provisions of this chapter or any private act or resolution of a county legislative body to the contrary, no litigation taxes shall apply to any charge prosecuted for an offense under § 55-8-188.

(h) Tennessee Code Annotated, Section 67-4-604(a), is amended by deleting the final period "." and by substituting instead the following:

; provided, however, notwithstanding any provision of this section or this part or any other law to the contrary, privilege taxes levied by § 67-4-602, shall not be applicable to a proceeding in a municipal court unless, and only to the extent that, the proceeding necessitates exercise of the court's duly conferred concurrent general sessions jurisdiction.

SECTION 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 8.

(a) This act shall take effect January 1, 2005, the public welfare requiring it.

(b) Notwithstanding any provision of § 16-17-101(c), or any other law to the contrary, from May 12, 2003, through January 1, 2005, concurrent general sessions jurisdiction shall not be newly conferred upon any existing or newly created municipal court.